FILED JANUARY 21, 2015

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of **JOHNNIE LEE TAYLOR,** **Member No. 117532,** A Member of the State Bar.	)	Case No.: **13-O-14902-LMA** **DECISION**

Introduction[1]

In this contested, original disciplinary proceeding, respondent **JOHNNIE LEE TAYLOR** is charged with four counts of willfully violating his duty, under section 6068, subdivision (k), "[t]o comply with all conditions attached to any disciplinary probation…" by violating three of the probation conditions attached to the three-year disciplinary probation imposed on him in the Supreme Court's November 10, 2010, order in *In re Johnnie Lee Taylor on Discipline*, case number S185995 (State Bar Court case number 09-C-12634) (*Taylor* III).

For the reasons set forth *post*, the court finds that respondent is culpable of violating section 6068, subdivision (k) because he failed to strictly comply with two of the conditions attached to his disciplinary probation in *Taylor* III. In addition, in light of all the relevant factors, the court finds that the appropriate level of discipline for the found misconduct is three years'

[1] Unless otherwise indicated, all references to rules are to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code unless otherwise indicated.

stayed suspension and three years' probation on conditions, including a 60-day period of actual suspension.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this disciplinary proceeding by filing a notice of disciplinary charges (NDC) against respondent on May 9, 2014. Respondent, thereafter, filed a response to the NDC on May 30, 2014.

On October 17, 2014, the parties filed a partial stipulation as to undisputed facts and admission of documents.

A four-day trial was held on October 21 through 24, 2014. The court took the matter under submission for decision on October 24, 2014.

The State Bar was represented by Deputy Trial Counsel Ann J. Kim and Anand Kumar. Respondent represented himself. Attorney Jon Gelb appeared with respondent as respondent's co-counsel for one day of the trial.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on May 29, 1985, and has been a member of the State Bar of California since that time.

Case Number 13-O-14902 – Violations of Duty to Comply With Probation Conditions

Facts

In the Supreme Court's November 10, 2010, order in *Taylor* III, the Supreme Court placed respondent on two years' stayed suspension and three years' disciplinary probation on conditions, including a nine-month actual suspension with credit given for the period of respondent's interim suspension following the criminal convictions that were the subjects of

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Taylor III.[2] The Supreme Court imposed that discipline, including the conditions of probation, on respondent in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with the State Bar and which was approved by the State Bar Court in an order filed on July 14, 2010, in State Bar Court case number 09-C-12634 (*Taylor* III stipulation).

The Supreme Court's November 10, 2010, order in *Taylor* III became effective December 10, 2010. (Cal. Rules of Court, rule 9.18(a).) Accordingly, respondent's three-year disciplinary probation in *Taylor* III began on December 10, 2010, and ended on December 10, 2013.

In the present case, respondent stipulates that he failed to strictly comply with both the LAP[3] and the quarterly-reporting conditions attached to the three-year disciplinary probation imposed on him in *Taylor* III.

LAP Probation Condition

Respondent's LAP probation condition required (1) that respondent comply with all the provisions of the participation agreement/plan that respondent entered into with LAP and (2) that respondent provide written evidence of his compliance with his LAP participation agreement to the State Bar's Office of Probation (State Bar Probation Office) with each of respondent's quarterly probation reports. Under the provisions of respondent's LAP participation agreement, respondent was required (1) to attend at least one Alcoholics Anonymous (AA) meeting a day for 22 months from February 2012 to December 2013, (2) to attend one group therapy sessions each week, and (3) to abstain from consuming alcohol and to submit to random testing for alcohol consumption. The results of the tests for alcohol consumption were provided to LAP.

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[2] Respondent had actual knowledge of the Supreme Court's November 10, 2010, order in Taylor III at all times material to the charged misconduct in this proceeding.

[3] LAP is an acronym for the State Bar's Lawyer Assistance Program. The Legislature established LAP in 2001 as a means of identifying and rehabilitating attorneys with impairments due to the abuse of drugs, alcohol, or mental illness. (§ 6230 et seq.)

Respondent became sober from alcohol on September 10, 2010, and has remained sober and abstained from consuming alcohol since that time.

Respondent stipulates that he failed to strictly comply with his LAP probation condition (1) because he missed LAP scheduled random tests for alcohol consumption on seven separate occasions (i.e., on April 5, 2011, August 9, 2011, October 12, 2011, December 6, 2011, December 6, 2012, June 17, 2013, and December 3, 2013) and (2) because respondent missed LAP required group therapy sessions on two separate occasions (i.e., on May 11, 2011, and September 13, 2011).

Even though respondent stipulated to missing four random tests for alcohol consumption in 2011, LAP issued a certificate to respondent on October 15, 2012, certifying: (1) that respondent had satisfied all the requirements for testing for alcohol consumption set forth in respondent's LAP participation agreement for the prior year (i.e., 2011); (2) that no unauthorized substances were detected in those tests; and (3) that LAP was not aware of any use of any unauthorized substances by respondent during the prior year.

Even though respondent stipulated to missing one random test for alcohol consumption in 2012, LAP issued a certificate to respondent on May 16, 2013, certifying: (1) that respondent had satisfied all the testing requirements set forth in respondent's LAP participation agreement for the prior year (i.e., 2012); (2) that no unauthorized substances were detected in those tests; and (3) that LAP was not aware of any use of any unauthorized substances by respondent during the prior year.

Moreover, notwithstanding the facts that respondent missed seven random tests for alcohol consumption between 2011 and 2013 and that respondent missed two required group therapy sessions in 2011, respondent successfully completed and graduated from LAP on March 25, 2014, without ever having any unauthorized substances detected. As respondent's LAP case

manager stated in a June 2014 email to respondent: "Regardless of the circumstances [surrounding your missed tests], the LAP Evaluation Committee determined that you were eligible to successfully graduate [from LAP], which you did on March 25, 2014." In short, respondent successfully graduated from LAP because it believed that respondent had maintained sobriety and stability in the program.

Quarterly-Reporting Condition

Under respondent's quarterly-reporting condition, respondent was required to submit written quarterly reports to the State Bar Probation Office on each January 10, April 10, July 10, and October 10 stating under penalty of perjury whether he had complied with the State Bar Act, the Rules of Professional Conduct, and all the conditions of his *Taylor* III disciplinary probation during the preceding calendar quarter.[4]

Respondent stipulates that he failed to strictly comply with his quarterly-reporting condition because, as set forth below, he submitted four quarterly reports late. First, respondent submitted his July 10, 2011, quarterly report 10 days late on July 20, 2011. As respondent credibly testified, he failed to timely submit that report because he was distracted by his brother's unexpected death on July 3, 2011, and his making the funeral arrangements, etc.

Second, respondent first submitted his October 10, 2011, report 11 days late on October 21, 2011. The State Bar Probation Office, however, rejected that report. Thereafter, respondent resubmitted the report again on October 31, 2011, but it was again rejected by the State Bar Probation Office. Respondent, thereafter, resubmitted that report a third time on November 8, 2011, and the State Bar Probation Office accepted it. In sum, respondent submitted his October 10, 2011, report 29 days late.

[4] Respondent was also required to submit a final probation report during the last 20 days of his probation.

Third, respondent submitted his July 10, 2013, report on time, but the State Bar Probation Office rejected it because respondent forgot to date it. Respondent, thereafter, dated and resubmitted that report the very next day.

Fourth, respondent submitted his October 10, 2013, report 7 days late on October 17, 2013.

Conclusions

Count One A – Comply With Disciplinary Probation Conditions (§ 6068, subd. (k))

The record establishes, by clear and convincing evidence, that respondent willfully violated his duty under section 6068, subdivision (k) to comply with the conditions attached to the three-year disciplinary probation imposed on him in *Taylor* III as charged in Count One A by violating his quarterly-reporting condition when he failed to timely file four quarterly probation reports on July 10, 2011, October 10, 2011, July 10, 2013, and October 10, 2013.

Count One B – Comply With Disciplinary Probation Conditions (§ 6068, subd. (k))

The record also clearly establishes that respondent willfully violated section 6068, subdivision (k) as charged in count one B by violating his LAP probation condition when he missed seven tests for alcohol consumption on April 5, 2011, August 9, 2011, October 12, 2011, December 6, 2011, December 6, 2012, June 17, 2013, and December 3, 2013, and when he missed two group therapy sessions on May 11, 2011, and September 13, 2011. However, the violations of respondent's LAP probation condition are greatly mitigated by LAP's October 15, 2012, and May 16, 2013, certificates of compliance and respondent's successful completion of LAP on March 25, 2014.

Count One C – Comply With Disciplinary Probation Conditions (§ 6068, subd. (k))

The record fails to establish, by clear and convincing evidence, that respondent willfully violated section 6068, subdivision (k) by failing to timely provide the State Bar Probation Office

with written proof that he complied with his LAP participation agreement as charged in Count One C. Respondent credibly testified that he requested that LAP supply the State Bar Probation Office with written reports of his compliance with LAP. Respondent could not provide the required reports himself; only LAP could provide the required written reports. LAP's lack of timeliness does not establish that respondent willfully violated his probation or section 6068, subdivision (k). In short, Count One C is DISMISSED with prejudice for want of proof.

Count One D -- Comply With Disciplinary Probation Conditions (§ 6068, subd. (k))

The charged violations of section 6068, subdivision (k) in Count One D are duplicative of the charged violations in Count One A. Accordingly, Count One D is DISMISSED with prejudice.

Aggravation[5]

Prior Records of Discipline (Std. 1.5(a))

Respondent has four prior records of discipline.

***Taylor* I**

In 1993, respondent was publicly reproved in State Bar Court case number 91-O-06555 (*Taylor* I) in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with the State Bar. In *Taylor* I, respondent stipulated that he engaged in misconduct in two separate client matters. In the first client matter, respondent stipulated that he failed to perform legal services competently (rule 3-110(A)). In the second client matter, respondent stipulated that he failed to perform legal services competently (rule 3-110(A)) and that he failed to adequately communicate with the client (§ 6068, subd. (m)). There were no aggravating circumstances in *Taylor* I. The mitigating circumstances found were

[5] All references to standards (stds.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

no prior record of discipline; candor and cooperation with victims of misconduct and candor and cooperation with the State Bar; financial difficulties; and dissolution of respondent's law firm.

***Taylor* II**

In 2002, respondent was publicly reproved in State Bar Court case number 00-O-14819 (*Taylor* II) in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with the State Bar. In *Taylor* II, respondent stipulated that he failed to obey an order to pay sanctions in the amount of $2,110 plus interest thereon (§ 6103) and that he failed to report the sanctions to the State Bar (§ 6068, subd. (o)(3)). In *Taylor* II, the aggravating circumstance was one prior record of discipline, and the mitigating circumstances were partial restitution paid and good character.

***Taylor* III**

As noted *ante*, in the Supreme Court's November 10, 2010, order in *Taylor* III, respondent was placed on two years' stayed suspension and three years' disciplinary probation on conditions, including a nine-month actual suspension with credit given for the period of respondent's interim suspension following the criminal convictions that were the subjects of *Taylor* III. As also noted *ante*, that discipline was imposed on respondent in accordance with the parties' stipulation in *Taylor* III.

The *Taylor* III stipulation conclusively establishes the following facts. In August 2009, Respondent pleaded nolo contendere to and was convicted on (1) one felony count of stalking (Pen. Code, § 646.9, subd. (a)); (2) one felony count of stalking when there is a restraining order in effect prohibiting the stalking (Pen. Code, § 646.9, subd. (b)); (3) one misdemeanor count of driving with .08 percent or more of alcohol in blood (Veh. Code, § 23152, subd. (b)).

The facts and circumstances surrounding respondent's commission of each of these three crimes involved moral turpitude. In addition, the facts and circumstances surrounding

respondent's driving with .08 percent or more of alcohol in his blood also demonstrated violations of respondent's duties to support the laws of this state, to maintain the respect due to the courts of justice and judicial officers, and to obey court orders under sections 6068, subdivisions (a) and (b) and 6103, respectively.

The facts and circumstances surrounding respondent's convictions clearly establish that respondent repeatedly engaged in acts involving moral turpitude against the mother of his son and his then wife and the man she was living with named Mr. Starks. Those acts of moral turpitude against respondent's wife and Mr. Starks, which establish that respondent was not then fit to practice law, included inter alia repeated harassment with the intent to inflict emotional damage, assault, assault with a deadly weapon, repeated threats of murder, stalking, lying to the police investigating respondent's criminal conduct, which respondent even committed in the presence of his young son and all in deliberate violation of a restraining order that required respondent to stay at least 100 yards away from his then wife and their young son except when there was an exchange of custody of the son. Respondent's repeated acts of moral turpitude spanned at least one and one-half years from September 2007 through March 2009 and caused his then wife to move no less than six times in two years. Moreover, respondent committed at least some of those acts when he was intoxicated.

The aggravating circumstances in *Taylor* III were two prior records of discipline and harm to respondent's then wife, respondent's son, and Mr. Starks. The only mitigating circumstance was the respondent and his then wife "were involved in a long custody and divorce dispute."

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***Taylor* IV**

In an order filed on May 5, 2011, in *In re Johnnie Lee Taylor on Discipline*, case number S190893 (State Bar Court case number 08-O-13790, etc.), the Supreme Court placed respondent on two years' stayed suspension and three years' probation on conditions, including a 90-day actual suspension that will continue until respondent establishes his rehabilitation, present fitness to practice, and learning in the general law in accordance with former standard 1.4(c)(ii) (now standard 1.2(c)(1)). That discipline, like respondent's three prior records of discipline, was imposed on respondent in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with the State Bar in *In Taylor* IV.

In *Taylor* IV, respondent stipulated to five counts of misconduct involving three separate client matters. In each of the three client matters, respondent stipulated to failing to competently perform legal services (rule 3-110(A)). Respondent also stipulated to two counts of failing to maintain the respect due the courts of justice and judicial officers (§ 6068, subd. (b)). The aggravating circumstances in *Taylor* IV were respondent's three prior records of discipline and client harm in one of the three client matters. The sole mitigating circumstance was that respondent had problems with his secretary at the time failing to file papers.

The misconduct in *Taylor* IV occurred at about the same time as the misconduct in *Taylor* III. Accordingly, the parties did not stipulate to progressive discipline in *Taylor* IV. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

Multiple Acts (Std. 1.5(b))

Respondent's present misconduct evidences multiple acts of misconduct (i.e., probation violations).

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Mitigation

Good Character (Std. 1.6(f))

Respondent presented very credible good character testimony from 10 witnesses, five of whom are attorneys. Six of the witnesses appeared in court in person and testified, and four of the witnesses testified by declaration. Even though some of the witnesses incorrectly believed that the trial in this proceeding was to determine whether respondent should be permitted to practice law again, each of the witnesses knew the substance of the disciplinary charges against respondent. Respondent's witnesses presented strong evidence of respondent's good character and his commitment to sobriety.

Good faith and Cooperation with Probation Office and LAP

Respondent acted in good faith with respect to the conditions of his disciplinary probation and always undertook to comply with them in good faith. In addition, respondent demonstrated exceptional cooperation with LAP, the State Bar Probation Office, and the State Bar Office of Trials. Respondent's good faith attempts to comply with each of his probation conditions and his exceptional candor and cooperation with the State Bar are mitigating circumstances that are entitled to significant weight. (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 150.)

Alcohol Addiction (Std. 1.6(d))

Respondent's expert witness, who was very credible, testified that respondent's probation violations were not intentional, but were the results of respondent's addiction to alcohol and his struggle to overcome it. According to the expert, even though respondent stopped consuming alcohol on September 10, 2010, the effects of his addiction continued to adversely affect respondent's conduct and actions for years. Because respondent's has overcome his addiction for

a significant period of time, his addiction is a very significant, if not compelling, mitigating circumstance. (Std. 1.6(d).)

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Second, the court looks to decisional law for guidance. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

The applicable standard for respondent's violations of section 6068, subdivision (k) is standard 2.14, which provides: "Disbarment or actual suspension is appropriate for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards." Also relevant is standard 1.8(b), which provides:

> If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
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> 1. Actual suspension was ordered in any one of the prior disciplinary matters;
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> 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
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> 3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

As the Supreme Court and the review department have made clear, when applying a standard that provides for a specific level of discipline based an attorney's prior record or records of

discipline, such as standard 1.8(b), the State Bar Court is not to blindly "treat all priors as having equal weight, but [is to] consider the facts underlying the various proceedings in arriving at the appropriate discipline." (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507; *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-779.) Thus, it is improper to recommend that an attorney be disbarred based solely on the mere number of times he or she has been disciplined. And that is primarily because "[t]he imposition of attorney discipline does not issue from a fixed formula but from a balanced consideration of all relevant factors, including aggravating and mitigating circumstances." (*Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316.)

Without question, even purported mandatory standards can be tempered by "considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-221; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994). In sum, the court rejects the State Bar's contention that disbarment is required in this proceeding under standard 1.8(b) merely because respondent has four prior records of discipline particularly since respondent's first two prior records are so remote in time and since the prior and present records do not suggest, much less establish, that respondent is unwilling or unable to conform his conduct to ethical strictures of the profession.

The court also rejects the State Bar's contention that the prior and present records establish a pattern of misconduct or wrongdoing. The Supreme Court has repeatedly held that, only the most serious instances of repeated misconduct over a prolonged period of time may be characterized as a pattern of misconduct or wrongdoing. (See *In the Matter of Valinoti* (Review Dept.2002) 4 Cal. State Bar Ct. Rptr. 498, 555, citing *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149–1150 & 1150, fn. 14.)

Relevant case law provides more guidance on the issue of discipline. In *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 151, the review department aptly instructed:

> The protection of the public and the rehabilitation of the attorney are the chief aims of attorney disciplinary probation. [Citation.] The violation of a probation condition significantly related to the attorney's prior misconduct merits the greatest discipline, especially if the violation raises a serious concern about the need to protect the public or shows the attorney's failure to undertake steps toward rehabilitation. [Citations.] By contrast, the least discipline is appropriate for the violation of a less important probation condition, particularly if the violation does not call into question the need for public protection or the attorney's progress toward rehabilitation. [Citation.]

Because respondent's drinking was a circumstance that often surrounded many of respondent's acts of moral turpitude that surrounded respondent's criminal convictions in *Taylor* III, respondent's violations of his LAP probation condition would ordinarily warrant significant stayed and actual suspension. However, in light of respondent's successful completion of LAP on March 25, 2014, and respondent's continuous sobriety since September 10, 2010, those violations no longer warrant significant discipline because they no longer raise serious public protection concerns or suggest that respondent is not willing to undertake rehabilitation.

Moreover, respondent's violations of his quarterly-reporting condition are substantially mitigated by respondent's good faith efforts to timely comply with his probation, the unexpected death of respondent's brother, and by respondent's abuse of alcohol from which he has substantially recovered.

The court finds the case of *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678 instructive on the issue of discipline even though the misconduct in *Laden* was significantly greater than that found here. In *Laden*, the attorney was charged with and found culpable of making five monthly restitution payments late and of submitting one quarterly probation report late. In aggravation, the record in that case established that the attorney made

14 additional restitution payments late and submitted six more quarterly reports late, all of which were found to be uncharged-but-proved-misconduct aggravation. In sum, the attorney in *Laden* made 19 out of 27 restitution payments late and submitted 7 of his quarterly reports late. The attorney in *Laden* had four prior records of discipline and committed multiple acts of misconduct. In mitigation, the attorney had financial problems and displayed candor and cooperation with victim. In addition, the attorney was given slight mitigation for his appreciation of the nature of his misconduct and his community contributions. The attorney in *Laden* was suspended for 90 days and until restitution was fully paid.

The court is mindful that respondent has continuously been suspended from the practice of law since February 1, 2010, when he was placed on interim suspension following his criminal convictions that were the subject of *Taylor* III and that respondent will remain suspended under the Supreme Court's May 5, 2011, order in *Taylor* IV until he establishes his rehabilitation, fitness to practice, and learning and ability in the general law in accordance with former standard 1.4(c)(ii) (now standard 1.2(c)(1)).

On balance, the court finds that the appropriate level of discipline for the found misconduct in the present proceeding is three years' stayed suspension and three years' probation on conditions, including a 60-day period of actual suspension. This discipline is progressive under standard 1.8(b) since respondent received a two-year stayed suspension in *Taylor* III and in *Taylor* IV.

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Recommendations

Discipline[6]

The court recommends that respondent JOHNNIE LEE TAYLOR, State Bar number 117532, be suspended from the practice of law in the State of California for three years, that execution of that suspension be stayed, and that he be placed on probation for three years on the following conditions:

1. Respondent is suspended from the practice of law for the first sixty days of probation.

2. Respondent is to comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.

3. Within 30 days after the effective date of the Supreme Court order in this matter, respondent is to contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. Respondent must promptly meet with the probation deputy as directed and upon request.

4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar under Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number or, if no office is maintained, respondent's address to be used for State Bar purposes, respondent must report such change in writing to the State Bar's Membership Records Office and Office of Probation.

5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

[6] The court does not recommend that respondent be required to attend ethics school or pass a professional responsibility examination because those requirements were previously imposed on him in *Taylor* III and because respondent has not engaged in any client misconduct since that time. (Cf. *Rhodes v. State Bar* (1989) 49 Cal.3d 50, 61; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 286.)

6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

7. Respondent must abstain from using alcoholic beverages and must not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

8. Respondent must select a licensed medical laboratory approved by the Office of Probation. Respondent must arrange to have the laboratory perform, on a random basis as directed by the Office of Probation four times each year of his probation and at respondent's expense, an ethyl glucuronide (EtG) test and a ten-panel drug test which will test for amphetamines, methamphetamines, barbiturates, benzodiazepines, cocaine metabolite, opiates, oxycodone, marijuana, methadone, and propoxyphene. These tests must be performed by a laboratory pursuant to Department of Transportation guidelines and testing must be observed. Respondent must comply with all laboratory requirements regarding specimen collection and the integrity of specimens. Respondent must cause the laboratory to provide to the Office of Probation, within one week of testing and at respondent's expense, the results or screening reports from such tests.

   Respondent must maintain with the Office of Probation a current telephone number at which respondent can be reached. Respondent must return any call from the Office of Probation concerning substance testing within 12 hours. Respondent is to have each random test performed by the laboratory no later than six hours after actual notice from the Office of Probation for a random test. For good cause, the Office of Probation may require respondent to have random tests in addition to four provided for above.

9. At the expiration of the period of probation, if respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

10. The probation period will commence on the effective date of the Supreme Court order in this matter. (See Cal. Rules of Court, rule 9.18.)

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Costs

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: January ___, 2015.

LUCY ARMENDARIZ
Judge of the State Bar Court